

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

(1) BARBARA BARRICK, as Special)
Administrator of the ESTATE OF)
BOBBY DALE BARRICK, deceased,)
)
 Plaintiff,)
)
 v.) Case No. CIV-23-129-GLJ
)
(2) BOARD OF COUNTY) JURY TRIAL DEMANDED
COMMISSIONERS OF MCCURTAIN)
COUNTY, OKLAHOMA;)
)
(3) MCCURTAIN COUNTY SHERIFF)
KEVIN CLARDY,)
)
(4) DEPUTY MATTHEW KASBAUM,)
)
(5) DEPUTY QUENTIN LEE,)
)
(6) DEPUTY KEVIN STOREY,)
)
(7) WARDEN MARK HANNAH,)
)
 Defendants.)

**DEFENDANT MCCURTAIN COUNTY SHERIFF
KEVIN CLARDY'S ANSWER TO PLAINTIFF'S COMPLAINT**

Defendant McCurtain County Sheriff Kevin Clardy (“Sheriff Clardy”), for his Answer to Plaintiff’s Complaint [Dkt. 2], alleges and states as follows:

Any of Plaintiff’s assertions or allegations not specifically admitted, denied or otherwise addressed in this Answer are denied by Sheriff Clardy and strict proof thereof is demanded.¹

¹The denials of Plaintiff’s factual assertions herein are based upon the best information available to the undersigned at the time of filing and are reasonably based on belief or lack of information.

PARTIES, JURISDICTION & VENUE

Barbara Barrick (Special Administrator of the Estate of Bobby Dale Barrick)

1 – 2 Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶¶1 – 2 of Plaintiff's Complaint.

Board of County Commissioners of McCurtain County, Oklahoma

3. Sheriff Clardy admits the assertions set forth in numerical ¶3 of Plaintiff's Complaint.

4. Denied as phrased.

5. Denied as phrased.

6. Denied.

7. Denied as phrased.

8. Numerical ¶8 of Plaintiff's Complaint consists of legal conclusions, not allegations of fact, and requires no response by Sheriff Clardy.

McCurtain County Sheriff Kevin Clardy

9. Sheriff Clardy objects to numerical ¶9 of Plaintiff's Complaint because it violates Fed. R. Civ. P. 10(b). Without waiving and subject to these objections, Sheriff Clardy admits the allegations set forth in numerical ¶9 of Plaintiff's Complaint.

10. Sheriff Clardy admits the assertions set forth in numerical ¶10 of Plaintiff's Complaint.

11. Sheriff Clardy admits the assertions set forth in numerical ¶11 of Plaintiff's Complaint.

12. Numerical ¶¶12-15 of Plaintiff's Complaint consist of legal conclusions, not allegations of fact, and requires no response by Sheriff Clardy.

16 – 18. Numerical ¶¶16 – 18 of Plaintiff's Complaint contain references and statements of

information not related to the case or assertions to which Sheriff Clardy has already responded. As such, Sheriff Clardy does not respond.

Matthew Kasbaum

19. Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶19 of Plaintiff's Complaint.

20. Sheriff Clardy admits the assertions of numerical ¶20 of Plaintiff's Complaint.

21. Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶21 of Plaintiff's Complaint

Quinton Lee

22. Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶22 of Plaintiff's Complaint.

23. Sheriff Clardy admits the assertions of numerical ¶23 of Plaintiff's Complaint.

24. Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶24 of Plaintiff's Complaint

Kevin Storey

25. Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶25 of Plaintiff's Complaint.

26. Sheriff Clardy admits the assertions of numerical ¶26 of Plaintiff's Complaint.

27. Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶27 of Plaintiff's Complaint.

Mark Hannah

28 – 30. Numerical ¶¶28-30 of Plaintiff's Complaint contain no allegations against this Defendant and therefore no response is necessary or offered.

31 – 33. Sheriff Clardy admits the assertions in numerical ¶¶31–33 of Plaintiff's Complaint.

But, denies that Plaintiff has stated a claim for which relief may be granted.

Facts

34 – 40. Sheriff Clardy admits that the various statements and reports referenced in numerical ¶¶34-40 exist. However, Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in ¶¶34-40.

41. Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶41 of Plaintiff's Complaint.

42 – 45 Sheriff Clardy objects to numerical ¶¶ 42 - 45 of Plaintiff's Complaint because it violates Fed. R. Civ. P. 10(b). Without waiving and subject to these objections, Sheriff Clardy denies as phrased the allegations set forth in numerical ¶¶42 - 45 of Plaintiff's Complaint. Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶¶42 - 45 of Plaintiff's Complaint.

46 – 47 Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶¶46 - 47 of Plaintiff's Complaint.

48. Denied as phrased.

49. Sheriff Clardy objects to numerical ¶49 of Plaintiff's Complaint because it violates Fed. R. Civ. P. 10(b). Without waiving and subject to these objections Sheriff Clardy denies as phrased all the allegations set forth in numerical ¶49 of Plaintiff's Complaint.

50. Denied.

51 – 54. Sheriff Clardy objects to numerical ¶¶51 – 54 of Plaintiff's Complaint because it violates Fed. R. Civ. P. 10(b). Without waiving and subject to these objections, Sheriff Clardy denies as phrased all the assertions of ¶¶51 - 54 of Plaintiff's Complaint.

55. Denied.

56. Sheriff Clardy objects to numerical ¶56 of Plaintiff's Complaint because it violates

Fed. R. Civ. P. 10(b). Without waiving and subject to these objections, Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶56 of Plaintiff's Complaint and its subparts.

57. Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶57 of Plaintiff's Complaint.

58 – 64. Sheriff Clardy denies numerical ¶¶58-64 of Plaintiff's Complaint.

First Cause of Action:
Unlawful Use of Excessive Force in violation of U.S. Const., Amend.. IV
(42 S.C. §1983)

65 – 70. Numerical ¶¶65-70 of Plaintiff's Complaint consist of legal conclusions, not allegations of fact, and requires no response by Sheriff Clardy.

71. Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶71 of Plaintiff's Complaint.

72 – 74 Numerical ¶¶72-74 of Plaintiff's Complaint consist of legal conclusions, not allegations of fact, and requires no response by Sheriff Clardy.

75 - 77 Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶¶75 - 77 of Plaintiff's Complaint.

78. Denied as phrased.

79. Sheriff Clardy objects to numerical ¶79 of Plaintiff's Complaint because it violates Fed. R. Civ. P. 10(b). Without waiving and subject to these objections, Sheriff Clardy denies as phrased all the assertions in numerical ¶79 of Plaintiff's Complaint and its subparts.

80 – 82. Sheriff Clardy is without sufficient information or knowledge to form a belief as to the veracity of all the assertions in numerical ¶¶80-82 of Plaintiff's Complaint

83 – 92 Sheriff Clardy denies numerical ¶¶83 - 92 of Plaintiff's Complaint.

93. Sheriff Clardy is without sufficient information or knowledge to form a belief as to

the veracity of all the assertions in numerical ¶93 of Plaintiff's Complaint

94. Denied as phrased.

95. Denied.

96. Denied

Sheriff Clardy denies that Plaintiff is entitled to any relief as requested in the unnumbered "WHEREFORE" paragraph of Plaintiff's Complaint.

Second Cause of Action:
Failure to Intervene to Prevent or Stop the Use of Excessive Force
in violation of U.S. Const., Amend.. IV
(42 U.S.C. §1983)

97. Denied.

98. Denied.

99. Denied.

100. Denied.

Sheriff Clardy denies that Plaintiff is entitled to any relief as requested in the unnumbered "WHEREFORE" paragraph of Plaintiff's Complaint.

Third Cause of Action:
Monell Liability for Constitutional Violations
(42 U.S.C. §1983)

101-113. Sheriff Clardy denies numerical ¶¶101-113 of Plaintiff's Complaint.

Sheriff Clardy denies that Plaintiff is entitled to any relief as requested in the unnumbered "WHEREFORE" paragraph of Plaintiff's Complaint.

DEFENSES AND AFFIRMATIVE DEFENSES

Defendant McCurtain County Sheriff Kevin Clardy (“Sheriff Clardy”) for his defenses and affirmative defenses to Plaintiff’s claims, alleges and states:²

1. Plaintiff has failed to state a claim for any constitutional violation or for any remedy under 42 U.S.C. § 1983 against Sheriff Clardy.

2. Sheriff Clardy cannot be held liable for any federal constitutional violation resulting from the acts of agents, servants, appointees, or deputies under the doctrine of *respondeat superior* and/or vicarious liability.

3. Sheriff Clardy has not executed or implemented any policy or procedure which can be found in any ordinance, regulation, policy statement or decision officially adopted by Sheriff Clardy, or found in a pattern of persistent practices known to and approved by Sheriff Clardy that would be considered unconstitutional.

4. Plaintiff has failed to set forth any allegation which would create a material issue of fact as to the requisite, culpable state of mind of deliberate indifference on behalf of Sheriff Clardy.

5. The facts and evidence learned in discovery will show there were no underlying violations of the Decedent’s federal constitutional rights by an agent, deputy, or officer of the McCurtain County Sheriff’s Office.

6. The facts and evidence learned in discovery will show that no agent, deputy, or officer of the McCurtain County Sheriff’s Office used excessive force against the Decedent.

² All the defenses asserted herein are based upon the best information available to the undersigned at the time of filing and either have evidentiary support or are reasonably believed to likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

7. The facts and evidence learned in discovery will show the individual deputy Defendants acted objectively reasonably in all respects.

8. The facts and evidence learned in discovery will show that no policy, practice, or custom of the McCurtain County Sheriff's Office caused or contributed to the alleged violations of the Decedent's federal constitutional rights.

9. The facts and evidence learned in discovery will show that the training and supervision of the agents, deputies, and officers of the McCurtain County Sheriff's Office was adequate and did not caused the alleged violations of the Decedent's federal constitutional rights.

10. The facts and evidence learned in discovery will show that no act or omission by Sheriff Clardy caused Plaintiff or Decedent's harm or alleged constitutional violations.

11. Punitive damages are not available against Sheriff Clardy.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendant McCurtain County Sheriff Kevin Clardy respectfully requests this matter be adjudicated in his favor and that he be dismissed with his costs, attorney's fees and any other relief the law or equity allows.

Respectfully submitted,

s/ Howard T. Morrow
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**ATTORNEYS FOR DEFENDANT
MCCURTAIN COUNTY SHERIFF
KEVIN CLARDY**

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2023, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

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